

Practitioner's Docking No. _____

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent application

of Terry L. Harris

for MARKET DRIVEN HEALTH CARE SERVICE

Inventor(s)
Title of invention

the specification of which is being transmitted herewith

OR

In re application of:

Application No.: /

Group No.:

Filed:

Examiner:

For:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

*(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☐ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)

☐ with sufficient postage as first class mail.

37 C.F.R. § 1.10 *

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TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office (703) _____

Date: Mar 21, 2003


Signature

Robert E. Massa

(type or print name of person certifying)

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

NOTE: "An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

(1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);

(2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;

(3) Before the mailing date of a first Office action on the merits; or

(4) Before the mailing date of a first Office action after the filing of a request for continued examination under § 1.114."

37 C.F.R. § 1.97(b).

NOTE: "Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 C.F.R. § 1.56(a).

"Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

"A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability." 37 C.F.R. § 1.56(b)

"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) each inventor named in the application;

(2) each attorney or agent who prepares or prosecutes the application; and

(3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 C.F.R. § 1.56(c).

NOTE: The "duty as described in § 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O.G. 13 -25 at 17.

WARNING: "No information disclosure statement may be filed in a provisional application." 37 C.F.R. § 1.51(d).

List of Sections Forming Part of This Information Disclosure Statement

The following sections are being submitted for this Information Disclosure Statement:

(check sections forming a part of this statement: discard unused sections and number pages consecutively)

1. ☐ Preliminary Statements
2. ☐ FORMS PTO/SB/08A and 08B (formerly FORM PTO-1449)
3. ☐ Statement as to Information Not Found in Patents or Publications
4. ☐ Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted
5. ☐ Cumulative Patents or Publications

- 6. ☐ Copies of Listed Information Items Accompanying This Statement
- 7. ☐ Concise Explanation of Non-English Language Listed Information Items
 - 7A. ☐ EPO Search Report
 - 7B. ☐ English Language Version of EPO Search Report
- 8. ☐ Translation(s) of Non-English Language Documents
- 9. ☐ Concise Explanation of English Language Listed Information Items (Optional)
- 10. ☐ Identification of Person(s) Making This Information Disclosure Statement

(complete the following, if appropriate)

Sections _____, respectively, have been continued on ADDED PAGE(S).

*NOTE: "Once the minimum requirements are met, the examiner has an obligation to consider the information."
Notice of April 20, 1992 (1138 O.G. 37-41, 37).*

Section 1. Preliminary statements

Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. § 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability (37 C.F.R. § 1.97(h)), or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.

"Description and explanation of the listed information made on pages 5, 6, and 7 of the Specification."

Section 2. Forms PTO/SB/08A and 08B (formerly Form PTO-1449)

NOTE: With respect to the list required by paragraph (b) of 37 C.F.R. § 1.98, the Notice of April 20, 1992 (1138 O.G. 37-41) points out that:

"The list may not be incorporated into the specification but must be submitted in a separate paper. A separate list is required so that it is easy to confirm that applicant intends to submit an information disclosure statement, and because it provides a readily available checklist for the examiner to indicate which identified documents have been considered. A copy of a separate list will also provide a simple means of communication to applicant to indicate the listed documents that have been considered and those listed documents that have not been considered. Use of form PTO-1449, 'Information Disclosure Citation, is encouraged."

See also § 609, M.P.E.P., 8th Edition.

NOTE: *"An information disclosure statement may include two list[s] (and two certifications)) . . . in situations where some of the information listed was cited in a communication from a foreign patent office not more than three months prior to filing the statement and some was not, but was not known more than three months prior to filing the statement."* Notice of April 20, 1992 (1138 O.G. 37-41, 40).

See also § 609, M.P.E.P., 8th Edition.

NOTE: With respect to the examiner's consideration of the Information Disclosure Statement, the Notice of April 20, 1992 (1138 O.G. 37-41) states:

*"If information is listed in the specification rather than in a separate paper, or if the other content requirements *** are not complied with, the examiner will notify applicant in the next Office action that the information has not been considered. It should be noted, however, that no copy of a U.S. patent application is required to be submitted. ***"*

"Examiners must consider all citations submitted in conformance with the rules and this section and place their initials adjacent [sic] the citations on a list or in the boxes provided on a form PTO-1449. If the citations are submitted on a list other than a form PTO-1449, the examiner may write 'all considered' and his or her initials to indicate that all citations have been considered. If any of the citations are considered, a copy of the submitted list or form, as reviewed by the examiner, will be returned to the applicant with the next communication. The original copy of the form will be entered into the application file. The copy returned to applicant will serve both as acknowledgement of receipt of the information disclosure statement and as an indication that the references were considered by the examiner. Forms PTO-326 and PTOL-37 include a box to indicate the attachment of form PTO-1449."

*"Information which complies with requirements as discussed in this section but which is in a non-English language will be considered in view of the concise explanation submitted *** and insofar as it is understood on its face, e.g., drawings, chemical formulas, in the same manner that non-English language information in Office search files is considered by examiners in conducting searches. The examiner need not have the information translated unless it appears to be necessary to do so. *** The examiner should not require that a translation be filed by applicant. The examiner should not make any comment such as that the non-English language information has only been considered to the extent understood, since this fact is inherent."*

"Since information is required to be listed in a separate paper rather than in the specification, there is no need to mark 'All checked' or 'Checked' in the margin of a specification containing citations."

"If a statement fails to comply with the requirements as discussed in this section for an item of information, a line should be drawn through the citation to show that it has not been considered. The other items of information listed that do comply with the rules and this section will be considered by the examiner and will be appropriately initialed."

* * * * *

"A citation listed on form PTO-1449 and considered by the examiner in accordance with this section will be printed on the patent. A citation listed in a separate paper, equivalent to but not on form PTO-1449, and considered by the examiner in accordance with this section will be printed on the patent if the list is on a separate sheet which is clearly identified as an information disclosure statement and the list lends itself to easy capture of the necessary information by the Office printing contractor, i.e., each item of information is listed on a single line, the lines are at least double-spaced from each other, the information is uniform in format for each listed item, the list includes a column for the examiner's initials to indicate that the information was considered. If a citation is not printed on the patent but has been considered by the examiner in accordance with this section, the patented file will reflect that fact . . ."

Section 3. Statement as to Information Not Found in Patents or Publications (Information Not Listed in Forms PTO/SB/08A and 08B (formerly Form PTO-1449))

NONE

Section 4. Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted

NOTE: "A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

- (1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and
- (2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section." 37 C.F.R. § 1.98(d).

WARNING: "This exception to the requirement for copies of information does not apply to information which was cited in an international application under the Patent Cooperation Treaty." Notice of April 20, 1992 (1139 O.G. 37-41, 38). See also § 609, M.P.E.P., 8th Edition.

WARNING: 1893.03(g) Information Disclosure Statement in a National Stage Application

"When an international application is filed under the Patent Cooperation Treaty (PCT), prior art documents may be cited by the examiner in the international search report and/or the international preliminary examination report. When a national stage application is filed under 35 U.S.C. 371, or a national application is filed under 35 U.S.C. 111 claiming benefit of the filing date of the international application, it is often desirable to have the examiner consider the documents cited in the international application when examining the national application.

"As a result of an agreement among the European Patent Office (EPO), Japanese Patent Office (JPO), and the United States Patent and Trademark Office (USPTO), copies of documents cited in the international search report issued by any one of these International Searching Authority Offices generally are being sent to the other Offices when designated in the international application. Accordingly, in many national stage applications where the international search was conducted by the EPO, JPO, or USPTO, copies of the documents cited in the international search report are made available to the examiner in the national stage application.

"When all the requirements for a national stage application have been completed, applicant is notified (Form PCT/DO/EO/903) of the acceptance of the application under 35 U.S.C. 371, including an itemized list of the items received. The itemized list includes an indication of whether a copy of the international search report and copies of the references cited therein are present in the national stage file. The examiner will consider the documents cited in the international search report, without any further action by applicant under 37 CFR 1.97 and 1.98, when both the international search report and copies of the documents are indicated to be present in the national stage file. The examiner will note the consideration in the first Office action. There is no requirement that the examiners list the documents on a PTO-892 form. See form paragraphs 6.53, 6.54, and 6.55 (reproduced in MPEP § 609). Otherwise, applicant must follow the procedure set forth in 37 CFR 1.97 and 1.98 in order to ensure that the examiner considers the documents cited in the international search report.

"This practice applies only to documents cited in the international search report relative to a national stage application filed under 35 U.S.C. 371. It does not apply to documents cited in an international preliminary examination report that are not cited in the search report. It does not apply to applications filed under 35 U.S.C. 111(a) claiming the benefit of an international application filing date."

WARNING: While a copy of a non-English language item of information need not be submitted, if it was previously submitted to, or cited by, the Office in a prior application, provided it is properly identified in this statement and this application relies on that earlier filing date under 35 U.S.C. 120, nevertheless, the requirement in § 1.98(a)(3) for a concise explanation of non-English language information does not apply unless the relevance of the information differs from its relevance as explained in the prior application. See § 609, M.P.E.P. 8th Edition.

(Information Disclosure Statement — Section 4. Identification of Prior Application in Which Listed Information Was Already Submitted and for Which No Copies Are Submitted or Need Be Submitted
[8-1]—page 9 of 16—)

This application relies, under 35 U.S.C. § 120, on the earlier filing date of prior application
SN.: / , filed on _____ (date).

(complete the following, if applicable)

☐ This application also relies, under 35 U.S.C. 120, on the earlier filing date of prior
application SN.: / , filed on _____ (date).

The following references were submitted to, and/or cited by, the Office in the prior
application(s) and, therefore, are not required to be provided in this application:

NONE

Section 5. Cumulative Patents or Publications

NOTE: "When the disclosure of two or more patents or publications listed in an information disclosure statement are substantively cumulative, a copy of one of the patents or publications may be submitted without copies of the other patents or publications provided that it is stated that these other patents or publications are cumulative." 37 C.F.R. § 1.98(c).

NOTE: "The examiner will then consider only the patent or publication of which a copy is submitted and will so indicate on the list or form PTO-1449 submitted, e.g., by crossing-out the listing of the cumulative information," Notice of April 20, 1992 (1138 O.G. 37-41, 38). See § 609, M.P.E.P. 8th Edition.

STATEMENT

_____ is cumulative of the following patents or publications listed on Forms PTO/SB/08A and 08B (formerly PTO-1449):

NONE

In accordance with 37 C.F.R. § 1.98(c), a copy of only _____ is being submitted with this Information Disclosure Statement.

Section 6. Copies of Listed Information Items Accompanying This Statement

NOTE: 37 C.F.R. § 1.98(a)(2) requires that any information disclosure statement filed under § 1.97 shall include:
"A legible copy of:

- (i) Each U.S. patent application publication and U.S. and foreign patent;
- (ii) Each publication or that portion which caused it to be listed;
- (iii) For each cited pending U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
- (iv) All other information or that portion which caused it to be listed; . . . "

Legible copies of all items listed in Forms PTO/SB/08A and 08B (formerly Form PTO-1449) accompany this information statement.

(complete the following, if applicable)

- ☐ Exception(s) to above:
 - ☐ Items in prior application, from which an earlier filing date is claimed for this application, as identified in Section 4.
 - ☐ Cumulative patents or publications identified in Section 5.

Section 7. Concise Explanation of Non-English Language Listed Information Items

NOTE: 37 C.F.R. § 1.98(a)(3) provides that any information disclosure statement filed under § 1.97 shall include:

(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation of a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c)."

NOTE: "[T]he explanation required is limited to the relevance as understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information at the time the information is submitted to the Office." Notice of January 9, 1992, 1135 O.G. 13-25 at 14. See § 609A(3), M.P.E.P., 8th Edition.

NOTE: "The concise explanation requirement for non-English language information may be met by submission of an English language version of the search report indicating the degree of relevance found by the foreign office." Notice of January 9, 1992, 1135 O.G. 13-25, at 14 and 20. See § 609A(3), M.P.E.P., 8th Edition.

NOTE: "If a complete translation of the information into English is submitted with the non-English language information, no concise explanation is required." § 609A(3), M.P.E.P., 8th Edition.

WARNING: "The requirement in § 1.98(a)(3) for a concise explanation of non-English language information does not apply unless the relevance of the information differs from its relevance as explained in the prior application. See § 609, M.P.E.P., 8th Edition.

NOTE: When an English translation of the information is submitted with the foreign language information, no concise explanation is required. An English language equivalent application may be submitted to fulfill this requirement if it is, in fact, a translation of a foreign language application being listed in an information disclosure statement. There is no requirement for the translation to be verified. Submission of an English language abstract of a reference may fulfill the requirement for a concise explanation. See § 609A(3), M.P.E.P., 8th Edition.

This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report. See § 609A(3), M.P.E.P., 8th Edition.

NOTE: The requirement for a concise explanation of non English language information would not be satisfied by a statement that a reference was cited in the prosecution of a United States application which is not relied on under 35 U.S.C. 120. See § 609A(3), M.P.E.P., 8th Edition.

**Section 7A. Concise Explanation of Non-English Language Listed
Information Items—EPO Search Report**

Th relevance with respect to the following citations listed on Forms PTO/SB/08A and
08B (formerly Form PTO-1449):

is submitted on the basis of the accompanying:

(check the appropriate item)

- ☐ EPO search report that is in the English language,
- ☐ EPO search report that is not in the English language and that is accompanied
also by an English language version of the EPO search report,

that issued on the corresponding European patent application.

**Section 7B. Concise Explanation of Non-English Language Listed
Information Items—English Language Version of EPO
Search Report**

See Form 6-2.2

Section 8. Translation() of Non-English Language Documents

NOTE: 37 C.F.R. § 1.98(a)(3) provides that any information disclosure statement filed under § 1.97 shall include:

"(ii) A copy of the translation of a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c)."

NOTE: "The Office does not intend to require translations unless they have been reduced to writing and are actually translations of what is contained in the non-English language information. Applicants should note, however, that most examiners do not have the ability to understand information which is not in English and that the Office will not routinely translate information submitted in a non-English language. The examiner will consider the information insofar as it is understood on its face, e.g., drawings, chemical formulas, English language abstracts, but will not have the information translated unless it appears to be necessary to do so. Applicants are required to aid the examiner by complying with the requirements for a concise explanation in § 1.98(a)(3) for information submitted in a non-English language." Notice of January 9, 1992, 1135 O.G. 19-25, at 21.

NOTE: "The examiner will indicate that the non-English language information has been considered in the same manner as consideration is indicated for information submitted in English." Notice of April 20, 1992 (1138 O.G. 37-41, 41). See § 609C(2), M.P.E.P., 8th Edition.

NOTE: The translation need not be verified. Section 609A(3), M.P.E.P., 8th Edition.

NOTE: The examiner should not require that a translation be filed by the applicant. See § 609C(2), M.P.E.P., 8th Edition.

NOTE: There is no requirement for the translation to be verified. See § 609(A)(3), M.P.E.P., 8th Edition.

- ☐ Submitted herewith is an English translation of the following foreign language patents, publications or information or of those portions of those patents, publications or information considered to be material:

(complete the following, if applicable)

- ☐ No English language translations of the foreign language patents, publications or information or parts thereof are readily available, except for those listed above.
- ☐ The following foreign language documents submitted are believed to be the equivalent or substantial equivalent of the English language documents identified below, which are also submitted herewith.

Section 9. Concise Explanation of English Language Listed Information Items (OPTIONAL)

NOTE: *"Applicants may, if they wish, provide a concise explanation of why English-language information is being submitted and how it is understood to be relevant. Concise explanations are helpful to the Office, particularly where documents are lengthy and complex and applicant is aware of a section that is highly relevant to patentability or where a large number of documents are submitted and applicant is aware that one or more are highly relevant to patentability." Notice of April 20, 1992 (1138 O.G. 37-41, 38). See also § 609, M.P.E.P., 8th Edition.*

Section 10. Identification of Person(s) Making This Information Disclosure Statement

The person making this statement is

(check each applicable item)

- (a) ☐ the inventor(s) who signs below

SIGNATURE OF INVENTOR

(type name of inventor who is signing)

- (b) ☐ an individual associated with the filing and prosecution of this application (37 C.F.R. § 1.56(c))

SIGNATURE OF INVENTOR

(type name of inventor who is signing)

- (c) ☐ the practitioner who signs below on the basis of the information:

(check each applicable item)

- ☐ supplied by the inventor(s).
☐ supplied by an individual associated with the filing and prosecution of this application. (37 C.F.R. § 1.56(c))
☐ in the practitioner's file.


SIGNATURE OF PRACTITIONER

Reg. No.: 22,759

Tel. No.: (918) 664-2525

Customer No.:

Robert E. Massa
(type or print name of practitioner)

1535 South Memorial Ste 102
P.O. Address

Tulsa, Oklahoma 74112-7046

Substitute for form 1449A/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet of

Complete if Known

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No.	Document Number <small>Number/Kind Code/ # hours</small>	Publication Date <small>MM-DD-YYYY</small>	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US 6,014,629	1/11/2000	DeBruin-Ashton	
		US 2001//003461	3A1 10/25/01	Rubsamen	
		US 2002/0065759	A1 5/30/02	Henley	
		US 2002/0069085	A1 6/6/02	Engel et al	
		US 2002/0082866	A1 6/27/02	Ladouceur et al	
		US 2002/0120554	A1 8/29/02	Vega	
		US 2002/0178030	A1 11/28/02	Loeb	
		US 2003/0009355	A1 1/9/03	Gupta	
		US 20030028442	A1 2/16/03	Wagstaff et al	
		US 2003/0046169	A1 3/6/03	Fraser et al	
		US 2003/0060688	A1 3/27/03	Ciarnello et al	
		US 2003/0120511	A1 6/26/03	Samaquial	
		US 2003/0154103	A1 8/14/03	Koningsberg	
		US 2003/0154104	A1 8/14/03	Koningsberg	
		US-			
		US-			
		US-			

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.	Foreign Patent Document <small>Country Code/ Number/ Kind Code (if known)</small>	Publication Date <small>MM-DD-YYYY</small>	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T*

Examiner Signature	<input type="text"/>	Date Considered	<input type="text"/>
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 909. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kind Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. 6 Applicant to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.57 and 1.58. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1480, Alexandria, VA 22313-1480. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1480, Alexandria, VA 22313-1480.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.